

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of the Decision of the)	
Universal Service Administrator by)	
)	
Esko Public Schools)	File Nos. SLD-226754, 229615 and 230340
Esko, Minnesota)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 2, 2005

Released: February 3, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Esko Public Schools, Esko, Minnesota (Esko) seeks review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ The decision denied Esko's Funding Year 2001 applications for discounts under the schools and libraries universal service mechanism on the grounds that Esko filed its applications after the close of the filing window.² Esko argues that the untimely filing was unintentional and that the postmarking requirement for Block 6 certifications and Item 21 attachments in Funding Year 2001 violates the federal Electronic Signatures in Global and National Commerce Act (E-Sign Act). For the reasons set forth below, we deny Esko's Request for Review.

2. On January 5 and January 9, 2001, Esko electronically filed FCC Form 471 applications with SLD.³ Although the filing deadline for the Funding Year 2001 filing window was January 18, 2001, Esko did not mail the signed Block 6 certifications and Item 21 attachments for these applications until January 29, 2001.⁴ In July 2001, SLD notified Esko that Esko's applications were postmarked after January 18, 2001, and that the applications were filed outside of the FCC Form 471 filing window.⁵ Esko appealed to SLD and SLD denied the appeal.⁶

3. In its Request for Review, Esko states that its error in filing late was unintentional and that it otherwise followed all program rules. It also argues that, by requiring applicants to submit their signed

¹ Letter from Jim Schwartz & Richard Singpiel, Esko Public Schools, to Federal Communications Commission, postmarked November 20, 2001 (Request for Review).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Singpiel, Esko Public Schools, dated November 8, 2001 (SLD Appeal Decision).

³ Request for Review at 1.

⁴ The certified mail receipts that Esko enclosed with its Request for Review indicate a January 29, 2001 postmark. *Id.* at 4. Esko states that it brought the actual pages to the post office on January 20, 2001. *Id.* at 2.

⁵ Request for Review at 3.

⁶ SLD Appeal Decision.

certifications on paper, SLD was not honoring the E-Sign Act.⁷

4. Consistent with precedent, we deny the Request for Review. As we held in the *St. John Central School Order*, we find that Esko's argument concerning the E-Sign Act is insufficient to warrant relief because it fails to address Esko's failure to timely file its Item 21 attachments.⁸ Because Esko's Item 21 attachments were not submitted within the filing window, its FCC Form 471s were untimely,⁹ irrespective of the timing of its submission of the Block 6 certifications.

5. To the extent that Esko seeks a waiver of the filing window deadline because the late filing was unintentional and Esko followed all other program rules, we deny that request. The Commission may waive application of its rules, but only when special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁰ We find that the accidental nature of the omission is not a special circumstance warranting a waiver. In light of the thousands of applications that SLD reviews and processes each funding year, administrative necessity requires that each applicant be responsible for providing complete and accurate information and meeting all of the program deadlines.¹¹

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Esko Public Schools, Esko, Minnesota, on November 20, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

⁷ Request for Review at 1; 15 U.S.C. § 7001, *et seq.*

⁸ *See Request for Review of the Decision of the Universal Service Administrator by St. John Central School, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-239551, CC Docket No. 02-6, Order, 18 FCC Rcd 22912 (Wireline Comp. Bur. 2003) (*St. John Central School Order*).

⁹ It is well-established that program deadlines are enforced strictly. *See, e.g., Request for Review by Kings Local School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-223454, 228637, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 7105, 7107 para. 6 (Com. Car. Bur. 2002) ("In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.").

¹⁰ 47 C.F.R. § 1.3; *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1158-1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹¹ *See, e.g., Request for Review by Marin County Office of Education, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD- No. 303207, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22441 (Com. Car. Bur. 2002).